

**SENATE BILL 1181 LAID ON
TABLE SUBJECT TO CALL**

On motion of Senator Schwartz and by unanimous consent, **S.B. 1181** was Laid on Table Subject to Call.

**CONCLUSION OF SESSION FOR
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer (Senator Jones of Harris in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

ADJOURNMENT

On motion of Senator Moore the Senate at 8:46 o'clock a.m. adjourned until 10:30 o'clock a.m. today.

**FORTY-NINTH DAY
(Thursday, April 5, 1979)**

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Truan, Vale, Williams.

Absent-excused: Traeger.

A quorum was announced present.

The Reverend Freddie B. Dixon, Sr., Wesley United Methodist Church, Austin, offered the invocation as follows:

Lord, we hear conflicting words about our country. Some are telling us that our nation is headed for disaster. Crime keeps increasing, wars never let up, city streets are not safe for walking, drug abuse destroys minds and bodies.

Others are telling us that we are on the threshold of a new day. Better housing for everyone, more than enough food for our bodies, less work and more leisure, medical discoveries insuring better health.

This morning help us to sort some of it out by looking back to see what was planted by our forefathers when our country was born. We find that they labored for liberty and justice, fraternity and equality, self-determination and individual freedoms.

Lord, You guided our fathers through the birth pains of a new nation with independence and through the growing pains of civil war with the promise of liberty to all. Guide us through the tough times of sticking to the great causes that must never die, until we can affirm that we are:

“One nation under God, with liberty and justice for all.”

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Traeger was granted leave of absence for today on account of official State business on motion of Senator Jones of Taylor.

MESSAGE FROM THE HOUSE

House Chamber
April 5, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

H.C.R. 148 Commending President Carter, Prime Minister Begin, and President Sadat on the signing of the Middle East Peace Treaty

H.C.R. 149 Recalling **H.B. 1418**, for a record vote

S.B. 452 Relating to the testimony of an accomplice in a prosecution under the Alcoholic Beverage Code; amending Section 101.06 of the Texas Alcoholic Beverage Code, 1977; and declaring an emergency.

S.B. 556 Relating to refunds of tax monies paid to the Comptroller of Public Accounts and rights to bring court actions against the Comptroller of Public Accounts for refunds of tax monies;

S.B. 584 Relating to the optional use of the franchise tax short form return; allowing corporations with total assets of less than \$1,000,000 to use the short form return and amending the tax schedule to reflect the new asset limit; reconciling the short form reporting period with the Article 12.08 reporting period; providing an effective date; amending Sections (1) and (2), Article 12.19, Title 122A, Taxation—General, Revised Civil Statutes, 1925, as amended.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

BILL SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill:

H.B. 1272

CO-AUTHOR OF SENATE BILL 723

On motion of Senator Jones of Taylor and by unanimous consent, Senator Clower will be shown as Co-author of S.B. 723.

REPORTS OF STANDING COMMITTEES

Senator Snelson submitted the following report for the Committee on Intergovernmental Relations:

S.B. 824
S.B. 814
S.B. 946
S.B. 843
S.B. 760
S.B. 890
C.S.S.B. 718 (Read first time)

Senator Schwartz submitted the following report for the Committee on Natural Resources:

S.B. 902 (Amended)
S.B. 1069
S.B. 888
S.B. 1104
S.B. 1071
S.B. 1073
S.B. 1072
S.B. 1131
S.B. 1068 (Amended)
C.S.S.B. 1176 (Read first time)
C.S.S.B. 298 (Read first time)
S.B. 1103
S.B. 1102
S.C.R. 62
S.C.R. 63

Senator Creighton submitted the following report for the Committee on Economic Development:

S.B. 642
S.B. 625
S.B. 619 (Amended)
S.B. 591
S.B. 528
S.B. 305
S.C.R. 29
H.B. 732
C.S.S.B. 120 (Read first time)
C.S.S.B. 811 (Read first time)
C.S.S.B. 536 (Read first time)
C.S.S.B. 321 (Read first time)

Senator Moore submitted the following report for the Committee on State Affairs:

S.B. 1190
S.B. 1192
S.B. 1219
S.B. 1183
S.B. 924
H.B. 575
S.B. 1120
S.B. 1123 (Amended)
S.B. 1125
C.S.S.B. 997 (Read first time)
C.S.S.B. 712 (Read first time)
C.S.S.B. 1191 (Read first time)

Senator Brooks submitted the following report for the Committee on Human Resources:

C.S.S.B. 769 (Read first time)
C.S.S.B. 601 (Read first time)
C.S.S.B. 1062 (Read first time)

Senator Mauzy submitted the following report for the Committee on Education:

C.S.S.B. 195 (Read first time)

Senator Farabee submitted the following report for the Committee on Jurisprudence:

H.B. 354 (Amended)
S.B. 233
S.B. 340
S.B. 457
S.B. 458
S.B. 607
S.B. 876
S.B. 938 (Amended)
S.B. 963
S.B. 1066
S.B. 1067
S.B. 1130
S.B. 1216
C.S.S.J.R. 33 (Read first time)
C.S.S.B. 66 (Read first time)
C.S.S.B. 844 (Read first time)
C.S.S.B. 952 (Read first time)

SENATE BILLS AND RESOLUTION ON FIRST READING

On motion of Senator Farabee and by unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.B. 1226 by Farabee	Human Resources
Amending Section 2.10 of the Texas Mental Health and Mental Retardation Act, as amended (codified as Article 5547-201, et seq., Vernon's Texas Civil Statutes),	

to provide for payment of travel costs for members of advisory committees established or approved by the Texas Board of Mental Health and Mental Retardation; and declaring an emergency.

S.B. 1227 by Farabee

Human Resources

Amending Section 31 of the Texas Mental Health Code, as amended (codified as Article 5547-1, et seq, Vernon's Texas Civil Statutes) to provide for venue of temporary hospitalization proceedings in counties where a proposed patient is hospitalized by court order; and declaring an emergency.

S.B. 1228 by Farabee

Human Resources

Amending Section 12(c) of the Mentally Retarded Persons Act of 1977 (codified as Article 5547-300, Vernon's Texas Civil Statutes), to provide for payment of the cost of an independent diagnosis and evaluation and declaring an emergency.

S.B. 1229 by Brooks, Williams,
Ogg, Mengden, Jones of Harris

Intergovernmental Relations

Relating to county purchases and the keeping of county inventories in Harris County.

S.C.R. 66 by Mauzy

Administration

Granting Coopers & Lybrand permission to sue the State of Texas.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 994, To Committee on Jurisprudence.

H.B. 1117, To Committee on Jurisprudence.

H.B. 1319, To Committee on Jurisprudence.

HOUSE CONCURRENT RESOLUTION 149

The President laid before the Senate the following resolution:

H.C.R. 149, Requesting **H.B. 1418** be returned to House of Representatives for purpose of taking a record vote on final passage.

The resolution was read.

On motion of Senator Short and by unanimous consent, the resolution was considered immediately and was adopted.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on State Affairs, Subcommittee on Nominations:

Austin, Texas
April 5, 1979

TO THE SENATE OF THE SIXTY-SIXTH LEGISLATURE, REGULAR
SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments to be effective April 14, 1979.

TO BE A MEMBER OF THE STATE BOARD OF MEDICAL EXAMINERS:

For a six-year term to expire April 13, 1985.

JOHN A. WELTY, M.D. of Harlingen, Cameron County, is replacing Nicholas G. Palmarozzi, D. O. of Groves, Jefferson County, whose term expired.

TO BE JUDGE OF THE 125TH JUDICIAL DISTRICT OF TEXAS, HARRIS COUNTY, UNTIL THE NEXT GENERAL ELECTION AND UNTIL HIS SUCCESSOR SHALL BE DULY ELECTED AND QUALIFIED:

MR. CHARLES L. PRICE of Houston, Harris County is replacing Judge Lewis Dickson of Houston, Harris County, who resigned.

Respectfully submitted,

/s/W. P. Clements, Jr.
Governor of Texas

SENATE BILL 498 RECOMMITTED

On motion of Senator Andujar and by unanimous consent, **S.B. 498** was recommitted to the Committee on State Affairs.

SENATE BILL 797 ON SECOND READING

Senator Harris asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 797, Relating to regulation of persons who practice public accountancy; providing penalties.

There was objection.

Senator Harris then moved to suspend the regular order of business and take up **S.B. 797** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Truan, Vale, Williams.

Nays: Doggett, Mauzy.

Absent-excused: Traeger.

The bill was read second time.

Senator Doggett offered the following amendment to the bill:

Amend Section 1 of SB 797 by adding a new Subsection 2(e) to read as follows:

(e) The term 'financial statement' when used in this Act means statements and related footnotes that purport to show financial position at a specified point in time or changes in financial position during a specified period of time, including statements which use the cash or other incomplete basis of accounting. The term includes balance sheets, statements of income, statements of retained earnings, statements of changes in financial position, and statements of changes in owners' equity, or combinations thereof, but does not include incidental financial data included in management advisory or consulting services reports to support recommendations to a client, nor does it include tax returns and supporting schedules.

The amendment was read and was adopted.

Senator Doggett offered the following amendment to the bill:

Amend SB 797 by amending Section 1, Subsection 6 to read as follows:

Sec. 6. RULE MAKING. The Board shall promulgate rules deemed necessary or advisable to effectuate this Act, including the promulgation of rules of professional conduct in order to establish and maintain high standards of competence and integrity in the practice of public accountancy and to insure that the conduct and competitive practices of licensees serve the purposes of this Act and the best interest of the public. The Board, in its rules of professional conduct, shall not restrict advertising or competitive bidding by licensees except where necessary to:

(a) insure that advertising, price information, and other communications from licensees are informative, free of deception, and consistent with the professionalism expected and deserved by the public from those engaged in the practice of public accountancy;

(b) insure that the conduct and dealings of licensees are free from fraud, undue influence, deception, intimidation, over-reaching harassment, and other forms of vexatious conduct including uninvited solicitations to perform professional accounting services, provided however, that the term "uninvited solicitation" shall not be deemed to include advertising in print, radio, motion pictures, and television media;

(c) regulate the competitive practices of licensees to the extent necessary to insure that:

(1) contracts or engagements between a licensee and any state agency, political subdivision, county, municipality, district, authority, or publicly owned utility for the performance of professional accounting services are not solicited or awarded on the basis of competitive bids submitted for such contract or for such services in violation of law.

(2) contracts or engagements for the preparation of or opinion on any financial statement which is or can be used by or given to a person or entity not a party to the contract or engagement for the purpose of inducing reliance thereon are not entered into on the basis of competitive bids. This subsection shall not apply to any tax or consulting services. Further, this subsection shall not apply to any accounting services or any contracts or engagements for or opinion on any financial statement of, any sole proprietorship, partnership, or corporation whose sales or other revenues did not exceed \$300,000 for the latest complete fiscal year; however, the \$300,000 amount provided in this subsection shall be adjusted proportionately upward or downward on the first day of each calendar year according to changes from January 1, 1979 in the Consumer Price Index for all Urban Consumers published by the United States Department of Labor.

(3) no licensee engages in any competitive practice which would impair the independence of or quality of services rendered by any licensee or which would impair or restrict the opportunity for members of the public to seek and secure high quality professional accounting services at reasonable prices or which would unreasonably restrict competition among licensees.

In addition, the board may promulgate rules for programs recognizing areas of specialization in the practice of accountancy, relating to continuing education of licensees, and relating to alternate ways of demonstrating acceptable levels of competence. Participation in these programs shall be voluntary.

The amendment was read and was adopted.

Senator Doggett offered the following amendment to the bill:

Amend Section 1 of SB 797 by striking Subsection 26 and substituting the following wording in lieu thereof:

Sec. 26. CLIENT-ACCOUNTANT COMMUNICATIONS. (a) Except by permission of the client or person or entity engaging him or the heirs, successors, or personal representatives of such client or person or entity, a certified public accountant, public accountant, partnership, or corporation, holding a license to practice under this act, shall not be required to, disclose or divulge information of which he may have become possessed relative to or in connection with any professional services as a certified public accountant, public accountant, partnership, or corporation. Any information derived from or as a result of such professional services shall be deemed confidential and privileged. However, this section shall not apply to information related to the methods or procedures used in: 1) the preparation of a 'financial statement', 2) management advisory or consulting services, or, 3) tax returns and supporting schedules.

(b) No information shall be deemed privileged from disclosure in:

- (1) an action against a licensee by the client or entity engaging the licensee;
- or
- (2) any disciplinary investigation or proceeding conducted under or pursuant to this Act.

The amendment was read and was adopted.

Senator Andujar offered the following amendment to the bill:

Amend the Committee Printing of SB 797 at Page 4, SECTION 8. PROHIBITION AGAINST PRACTICING WITHOUT LICENSE, by striking the language between the semicolon on line 39 through the semicolon on line 44 and inserting in lieu thereof the following:

"provided, however, that only a person holding a license issued under Section 9 of this Act and all of whose offices in this state for the practice of public accountancy are maintained and registered as required under Section 10 of this Act may hold himself out to the public as an 'auditor'; or public auditor"

and striking from line 54, Page 4, the words "accountant or"

The amendment was read.

On motion of Senator Harris the amendment was tabled by the following vote: Yeas 21, Nays 7.

Yeas: Blake, Braecklein, Doggett, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Mengden, Moore, Ogg, Patman, Price, Santiesteban, Schwartz, Snelson, Truan, Williams.

Nays: Andujar, Brooks, Clower, Creighton, Jones of Harris, Meier, Short.

Absent: Parker, Vale.

Absent-excused: Traeger.

Senator Snelson offered the following amendment to the bill:

Amend Section 7 of SB 797 to read as follows:

Sec. 7. EXPENSES OF BOARD. (a) The fees and other money received by the Board under this Act shall be deposited in the State Treasury to the credit of a special fund to be known as the public accountancy fund and may be used only for the administration of this Act.

(b) The Board shall file an annual report of its activities with the governor and the Legislative Budget Board. The report shall include a summary statement of all receipts and disbursements of the Board for each calendar year. The Board's funds shall be audited regularly by the state auditor. [All expenses incurred under this Act shall be paid from the fees collected by the Board under this Act. No expenses incurred under this Act shall ever be a charge against the funds of the State of Texas. The Board shall, as of December 31, 1946, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements under this Act, for each calendar year.]

The amendment was read.

Senator Harris moved to table the amendment.

The motion was lost by the following vote: Yeas 13, Nays 17.

Yeas: Blake, Braecklein, Harris, Kothmann, McKnight, Meier, Moore, Ogg, Parker, Price, Santiesteban, Vale, Williams.

Nays: Andujar, Brooks, Clower, Creighton, Doggett, Farabee, Howard, Jones of Harris, Jones of Taylor, Longoria, Mauzy, Mengden, Patman, Schwartz, Short, Snelson, Truan.

Absent-excused: Traeger.

The amendment was then adopted.

RECORD OF VOTES

Senators Harris, Ogg, Braecklein and Williams asked to be recorded as voting "Nay" on the adoption of the amendment.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

SENATE BILL 797 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 797** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Traeger.

The bill was read third time and was passed.

SENATE BILL 886 ON SECOND READING

Senator Andujar moved to suspend the regular order of business to take up for consideration at this time:

S.B. 886, Relating to the offense of interference with child custody.

The motion prevailed by the following vote: Yeas 20, Nays 10.

Yeas: Andujar, Blake, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Williams.

Nays: Braecklein, Clower, Doggett, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Vale.

Absent-excused: Traeger.

The bill was read second time and was passed to engrossment by the following vote: Yeas 18, Nays 12.

Yeas: Andujar, Blake, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, McKnight, Meier, Mengden, Moore, Ogg, Price, Santiesteban, Short, Snelson, Williams.

Nays: Braecklein, Brooks, Clower, Doggett, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Vale.

Absent-excused: Traeger.

MESSAGE FROM THE HOUSE

House Chamber
April 5, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

S.B. 51 Relating to the delivery of mixed beverages by an establishment in a hotel. (As substituted)

S.B. 63 Relating to the notation of a person's death on his or her birth certificate.

S.B. 348 An Act amending Section 13a, Chapter 88, Acts of the 41st Legislature, 2nd C.S., p. 172, 1929 (codified as Article 6675a-13a of the Revised Civil Statutes of the State of Texas), providing for license fees on motor vehicles used on the public highways of this State, and declaring an emergency.

S.B. 418 Relating to public utility commission jurisdiction over water utility companies.

S.B. 918 Making an appropriation for payment of attorney fees under provisions of Article 26.055 C.C.P.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONSIDERATION OF NOMINATIONS

The President announced that the time had arrived for the Senate to consider the nominations to agencies, boards and commissions. (Notice of submission of these names having been given by Senator McKnight yesterday.)

Senator McKnight submitted the following report for the Committee on State Affairs, Subcommittee on Nominations:

REPORT OF STANDING COMMITTEE

Senator McKnight submitted the following report for the Committee on Nominations:

TO THE SENATE OF THE SIXTY-SIXTH LEGISLATURE, REGULAR SESSION:

We, your Subcommittee on Nominations, to which were referred the attached appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be a Member of the BOARD OF DIRECTORS, TRINITY RIVER AUTHORITY: Jimmy C. Payton, Tarrant County.

To be a Member of the TEXAS BOARD OF HEALTH: Joe N. Pyle, P.E., Bexar County.

To be Members of the BOARD OF REGENTS, TEXAS SOUTHERN UNIVERSITY: Mrs. Marjorie Meyer Arsht, Harris County; Howard D. Kirven, Dallas County; Winston R. Webster, Harris County.

To be a Member of the TEXAS BOARD OF PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES: Joe B. Simmons, Jr., Lubbock County.

To be a Member of the TEXAS BOARD OF LICENSURE FOR NURSING HOME ADMINISTRATORS: Dr. David B. Oliver, Bexar County.

To be a Member of the FINANCE COMMISSION OF TEXAS, BANKING SECTION: Ronald Lee Kellett, Kleberg County.

To be a Member of the TEXAS AMUSEMENT MACHINE COMMISSION: David L. Shaw, Dallas County.

To be a Member of the FLEET ADMIRAL CHESTER W. NIMITZ MEMORIAL NAVAL MUSEUM COMMISSION: Admiral Dallas Jordan, Dallas County.

To be a Member of the COMMISSION FOR INDIAN AFFAIRS: Albert Franklin Heldenbrand, Rusk County.

Senator McKnight moved confirmation of the nominees reported by the Subcommittee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The nominees as reported by the Subcommittee on Nominations were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Traeger.

SENATE BILL 474 ON SECOND READING

Senator Mengden asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 474, Relating to alcoholic beverage regulations relating to age.

There was objection.

Senator Mengden then moved to suspend the regular order of business and take up **S.B. 474** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Farabee, Harris, Howard, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Truan, Williams.

Nays: Doggett, Jones of Harris, Mauzy, Ogg, Vale.

Absent-excused: Traeger.

The bill was read second time.

Senator Santiesteban offered the following amendment to the bill:

Amend SB 474 by striking the number 19 on line 39 pp 3 of the bill and adding the number 18 therein

The amendment was read.

Question - Shall the amendment be adopted?

CONSIDERATION POSTPONED

On motion of Senator Mengden and by unanimous consent, consideration of **S.B. 474** was postponed until 11:00 o'clock a.m. on Tuesday, April 10, 1979.

COMMITTEE SUBSTITUTE SENATE BILL 359 ON SECOND READING

Senator Creighton moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 359, Relating to the definition of credit terms; amending subdivision (h), Article 7.01, Title 79, Revised Civil Statutes of Texas, 1925, as amended (Article 5069-7.01, Vernon's Texas Civil Statutes).

The motion prevailed by the following vote: Yeas 23, Nays 7.

Yeas: Andujar, Blake, Braecklein, Brooks, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, McKnight, Meier, Mengden, Moore, Ogg, Parker, Price, Santiesteban, Snelson, Vale, Williams.

Nays: Clower, Doggett, Mauzy, Patman, Schwartz, Short, Truan.

Absent-excused: Traeger.

The bill was read second time.

Senator Creighton offered the following amendment to the bill:

Amend **C.S.S.B. 359** as follows:

- (1) strike the word "reasonable" on line 21; and
- (2) strike the comma after the word "alike" on line 26, and insert between the word "alike" on line 26 and the word "less" on line 27 the following: "and does not exceed \$35.".

The amendment was read.

Question - Shall the amendment be adopted?

Senator Schwartz moved a Call of the Senate be ordered to secure a quorum for the consideration of **C.S.S.B. 359**.

Question - Shall a Call of the Senate be ordered?